HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT APPEAL NO.673 OF 2005

Between:

Director & Commissioner of
Intermediate Education, Hyderabad
and another

. . .Appellants

AND

JP Print Systems (P) Ltd

. . .Respondent

Counsel for the appellants : Government Pleader for Higher Education

Counsel for the respondent : Sri Kannabhiran assisted by Sri B.Nalin Kumar

Dated: 4th August, 2006

: JUDGMENT :

PER G.S.SINGHVI, CJ

This is an appeal for setting aside order dated 05.11.2004 passed by the learned Single Judge in Writ Petition No.15820 of 2004 whereby he directed the non-petitioners (appellants herein) to process the final bill dated 18.12.2003 submitted by the writ petitioner (respondent herein) for payment of the amount within a period of four weeks with the further direction that on such finalisation, pay the whatever amount is due.

A perusal of the record shows that the respondent supplied J.P's EAMCET material i.e. two sets of English medium and two sets of Telugu medium to District Vocational Education Officers and Regional Inspecting Officers pursuant to purchase order placed by Commissioner of intermediate Education vide his letter dated 28.1.2003. The respondent supplied English version of the material within the time specified in the purchase order, but there was some delay in the supply of Telugu version. In response to letter dated 28.10.2003 issued by Director/Secretary, Board of Intermediate Education, Government of Andhra Pradesh, the respondent assured him that Telugu version of the study material will be supplied positively by 15th November, 2003. The delay in supply of material was sought to be explained by pointing out that some time was consumed in the translation of the study material. After supplying Telugu version of the study material, the respondent submitted Bill No.715, dated 18.12.2003 for a sum of Rs.7,80,850/-. While doing so, the respondent offered a discount of 50%. Notwithstanding this, the bill was not

cleared by the concerned authority. Therefore, the respondent filed writ petition under Article 226 of the Constitution of India and prayed for issue of a mandamus to the respondents to finalise the bill.

In the counter affidavit filed on behalf of the non-petitioners (appellants herein), it was pleaded that the bill was not finalized because the writ petitioner had delayed supply of Telugu version of the study material.

On a consideration of the pleadings of the parties and the judgments of the Supreme Court in **ABL International Limited and another v. Export Credit Guarantee Corporation of India Limited and others**[1] and of this Court in **G.Rajender Reddy and Company v. Government of A.P., R & B Department and others**[2], the learned Single Judge allowed the writ petition vide his order dated 5.11.2004, the relevant portions of which are extracted below:

> "In view of the law declared by the Apex Court in (1) supra, the division bench of this Court in (2) supra, categorically held that after interpreting the terms and conditions of the contract as amended in Detailed Standard Specifications, the suit can be filed only after intimation is received by the contractor from the Government and the inaction on the part of the respondents Government can only be questioned by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India and for the said relief, the writ is maintainable.
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> In view of the same, the respondents are hereby directed to process the final bill vide invoice No.715, dated 18-12-2003 submitted by the petitioner for payment of the amount within a period of four weeks from the date of receipt of a copy of this order and on such finalisation, whatever the amount is due, has to be paid. It is needless to say that if any bill is due to the petitioner, the same shall be paid."

The appellants have questioned the order of the learned Single Judge mainly on the ground that in exercise of the power

vested in it under Article 226 of the Constitution, the High Court cannot adjudicate contractual disputes.

Learned Government Pleader for Higher Education argued that the learned Single Judge committed a serious error by entertaining the writ petition ignoring the fact that the issue raised therein squarely fell in the realm of contract. She submitted that the respondent had delayed supply of Telugu version of the study material and, therefore, the appellants were not obliged to pay the amount specified in the bill.

Sri K.G.Kannabhiran, learned Senior Advocate appearing for the respondent supported the order under challenge and argued that the learned Single Judge did not commit any error by directing the concerned authority to process the bill and pay the amount, which may be found due.

We have considered the respective submissions. In our opinion, the appeal is meritless and is liable to be dismissed. What the learned Single Judge has done is to direct the respondents to take final decision in relation to the bill dated 18.12.2003 submitted by the writ petitioner. There is no adjudication of any disputed question of fact. The direction given by the learned Single Judge does not have any direct nexus with the enforcement of contract entered into between the parties. It is an innocuous mandate to finalise the pending bill and pay the amount due. The use of the expression 'the amount due' is clearly indicative of the fact that the learned Single Judge did not adjudicate the respondent's claim on merits but simply directed the appellants to decide the same and pay the amount due.

We entirely agree with the learned counsel for the respondents that in their capacity as public authorities, the appellants are duty bound to finalise the bill submitted by the respondent and pay the amount due.

With the above observations, the writ appeal is dismissed. The interim order dated 01.04.2005 is vacated.

As a sequel to dismissal of the appeal, WAMP.No.1522 of 2006 is dismissed. WVMP.No.2490 of 2005 filed by the respondent is disposed of as infructuous.

The appellants are directed to comply with the order of the learned Single Judge within a period of four weeks from today and communicate their decision to the respondent.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

Date: 04.08.2006

Note:
The Court Officer is directed to give attested copy of the order to the learned Government Pelader for Higher Education.

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[1] (2004) 3 SCC 553

[2] (2002) 4 ALT 637